

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO

IN RE:	*	
	*	CASE NO. 11-01487 BKT
FELIX JAVIER SANTA RIVERA	*	
IVONNE CARLA LOPEZ ACOSTA	*	CHAPTER 13
	*	
DEBTORS	*	
	*	

**DEBTORS' OBJECTION TO CLAIM NUMBER 11-1
BY DEPARTMENT OF TREASURY**

TO THE HONORABLE COURT:

NOW COME, **FELIX JAVIER SANTA RIVERA and IVONNE CARLA LOPEZ ACOSTA**, debtors, through the undersigned attorney, and very respectfully state and pray as follows:

1. That the Department of Treasury ("Treasury") filed a proof of claim number 11-1, in the total sum of \$40,163.24, of which the amount of \$39,814.84 is claimed as secured, and \$336.33 as an unsecured priority portion.
2. That claim number 11-1 and its supporting documents reflect that the above mentioned secured portion of \$39,814.84 is based on a principal balance of \$28,115.00, of taxes owed for the years 2007, 2008, 2009 and 2010 and **unmatured interests, charges and penalties up to March 30, 2016**, calculated on said principal balance.
3. That Treasury's claim is secured by a pre-petition tax lien on debtors' principal residence located at Las Piedras, Puerto Rico, which lien was executed on May, 2010.
4. That debtors' real property and residence has an estimated actual market value of \$207,000.00, as per debtors' Schedule "A ".

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5. Pursuant to claim number 7-2 filed by Doral Bank, this property has a first mortgage lien with Doral Bank in the sum of \$217,156.18.

6. It is undisputed that the above stated property has no "equity" to cover Treasury's claim for **unmatured interests, charges and penalties up to March 30, 2016.**

7. Section 506(b) of the Bankruptcy Code, 11 U.S.C. Section 506(b) states as follows:

"(b) To the extent that an allowed secured claim is secured by property the value of which, after any recovery under subsection (c) of this section, is greater than the amount of such claim, there shall be allowed to the holder of such claim, interest on such claim, and any reasonable fees, costs, or charges provided for under the agreement or State statute under which such claim arose." 11 U.S.C. Section 506(b).

8. Therefore, Treasury's claim should not bear **unmatured interests, charges and penalties up to March 30, 2016**, because the value of the property securing Treasury's claim is not "greater than the amount of such claim". 11 U.S.C. Section 506(b).

9. Based on the aforementioned, debtors request that claim number 11-1 filed by Department of Treasury **be reduced to its principal balance of \$28,115.00 and that the balance for unmatured interests, charges and penalties up to March 30, 2016, be disallowed .**

WHEREFORE, the debtors respectfully request this motion be granted, and that proof of claim number 11-1 be reduced to the sum of \$28,115.00, in the above captioned case.

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NOTICE: Within thirty (30) days after service as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bank. P. 9006 (f) if you were served by mail, any party against whom this paper has been served, or any other party to the action that objects to the relief sought herein shall serve and file an objection or other appropriate response to this paper with the Clerk's office of the U.S. Bankruptcy Court for the District of Puerto Rico. If no objection or other response is filed within the time allowed herein, the paper will be deemed unopposed and may be granted unless: (i) the requested relief is forbidden by law; (ii) the requested relief is against public policy; or (iii) in the opinion of the Court, the interest of justice requires otherwise.

CERTIFICATE OF SERVICE: I CERTIFY that on this same date a copy of this motion was filed with the Clerk of the Court using the CM/ECF system which will send notice of the same to Alejandro Oliveras Rivera, Esq., Chapter 13 Trustee ; I also certify that a copy of this motion was sent via US Mail to: Department of Treasury, Bankruptcy Section Suite 1504 235 Arterial Hostos San Juan PR 00918-1454; Department of Justice, Federal Litigation Division, PO Box 9020192 San Juan PR 00902-0192; Felix Javier Santa Rivera and Ivonne C Lopez Acosta, Olympic Ville 85 Munich Street Las Piedras PR 00771.

RESPECTFULLY SUBMITTED. In San Juan, Puerto Rico, this 3rd day of November, 2011.

/s/Roberto Figueroa Carrasquillo
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